

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

| | | |
|-------------------------------|---|----------------------|
| LORINDA BROWN, |) | |
| |) | |
| Plaintiff, |) | 4:09CV3066 |
| |) | |
| v. |) | |
| |) | |
| CROSSROADS PLAZA, L.P., a |) | MEMORANDUM AND ORDER |
| Nebraska Limited partnership, |) | |
| |) | |
| Defendant. |) | |

The defendant's answer alleges the named defendant has no ownership interest in the property at issue in this case. The plaintiff's complaint seeks only prospective relief. In addition, the plaintiff alleges she has standing to pursue her claims as a "tester," (see, [Havens Realty Corp. v. Coleman, 455 U.S. 363 \(1982\)](#)), and the defendant has denied this allegation. Upon review of the pleadings and relevant law, the court finds the standing issue and the issue of whether the proper defendant was named in this lawsuit should be resolved at the outset. Accordingly,

IT IS ORDERED:

- 1) The defendant is given until October 1, 2009, to file a motion addressing whether this case should be dismissed for lack of standing or for failure to state a claim under Rules 12(b)(1) and/or 12(b)(6) of the Federal Rules of Civil Procedure.
- 2) The parties may, at this time, conduct discovery on the issues of standing and the ownership of the property described in plaintiff's complaint as "Crossroads Plaza, located at and around 7620 Dodge Street, Omaha, Nebraska." However, as to all other issues in this case,

discovery is stayed pending a court ruling on the anticipated Rule 12(b)(1) and 12(b)(6) motions.

- 3) The court's prior order dated July 13, 2009, (see filing no. [9](#)), is modified as follows: The parties shall complete sections I, II, and III of the Report of Parties' Planning Conference on or before August 17, 2009, and need not complete the remaining sections of the Report until further order of the court.

DATED this 16th day of July, 2009.

BY THE COURT:

s/Richard G. Kopf
United States District Judge